

Subsec. (c). Pub. L. 110–417, § 502(b)(2), added subsec. (c).

§ 1523. Posthumous commissions and warrants: effect on pay and allowances

No person is entitled to any bonus, gratuity, pay, or allowance because of a posthumous commission or warrant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1523	10:491d, 34:285f.	July 28, 1942, ch. 528, § 6, 56 Stat. 723; July 17, 1953, ch. 220, § 1(e) (1st 7 words), 67 Stat. 177.

The word “receive” is omitted as surplusage. The words “because of a posthumous commission or warrant” are substituted for the words “by virtue of any provision of sections 491a–491d [285b–285d] and 612 [285e] of this title”, in 10:491d and 34:285f.

§ 1524. Posthumous commissions and warrants: determination of date of death

For the purposes of sections 1521 and 1522 of this title, in any case where the date of death is established or determined under section 551–558 of title 37, the date of death is the date the Secretary concerned receives evidence that the person is dead, or the date the finding of death is made under section 555 of title 37.

(Added Pub. L. 89–718, § 12(a)(1), Nov. 2, 1966, 80 Stat. 1117.)

CHAPTER 79—CORRECTION OF MILITARY RECORDS

Sec.	
1551.	Correction of name after separation from service under an assumed name.
1552.	Correction of military records: claims incident thereto.
1553.	Review of discharge or dismissal.
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1556.	Ex parte communications prohibited.
1557.	Timeliness standards for disposition of applications before Corrections Boards.
1558.	Review of actions of selection boards: correction of military records by special boards; judicial review.
1559.	Personnel limitation.

AMENDMENTS

2019—Pub. L. 116–92, div. A, title V, § 523(b)(1), Dec. 20, 2019, 133 Stat. 1354, added item 1553a.

2017—Pub. L. 115–91, div. A, title V, § 522(a)(2), Dec. 12, 2017, 131 Stat. 1380, added item 1554b.

2008—Pub. L. 110–181, div. A, title XVI, § 1643(a)(2), Jan. 28, 2008, 122 Stat. 467, added item 1554a.

2002—Pub. L. 107–314, div. A, title V, § 552(b), Dec. 2, 2002, 116 Stat. 2552, added item 1559.

2001—Pub. L. 107–107, div. A, title V, § 503(a)(2), Dec. 28, 2001, 115 Stat. 1083, added item 1558.

1998—Pub. L. 105–261, div. A, title V, §§ 542(a)(2), 543(a)(2), 544(b), Oct. 17, 1998, 112 Stat. 2020–2022, added items 1555 to 1557.

1962—Pub. L. 87–651, title I, § 110(b), Sept. 7, 1962, 76 Stat. 510, substituted “discharge or dismissal” for “discharges or dismissals” in item 1553, and “retirement or separation without pay for physical disability” for “decisions of retiring boards and similar boards” in item 1554.

1958—Pub. L. 85–857, § 13(v)(3), Sept. 2, 1958, 72 Stat. 1268, added items 1553 and 1554.

§ 1551. Correction of name after separation from service under an assumed name

The Secretary of the military department concerned shall issue a certificate of discharge or an order of acceptance of resignation in the true name of any person who was separated from the Army, Navy, Air Force, Marine Corps, or Space Force honorably or under honorable conditions after serving under an assumed name during a war with another nation or people, upon application by, or on behalf of, that person, and upon proof of his identity. However, a certificate or order may not be issued under this section if the name was assumed to conceal a crime or to avoid its consequences.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 116–283, div. A, title IX, § 924(b)(3)(Y), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1551	5:200, 34:597.	Apr. 14, 1890, ch. 80; re-stated June 25, 1910, ch. 393, 36 Stat. 824. Aug. 22, 1912, ch. 329, 37 Stat. 324.

The word “shall” is substituted for the words “is authorized and required”. The word “separated” is substituted for the word “discharged”, since the revised section covers acceptances of resignations as well as certificates of discharge. The words “enlisted or” and “while minors or otherwise” are omitted as surplusage. The words “the War of the Rebellion” are omitted as obsolete. The word “with” is substituted for the words “between the United States and”. The words “honorably or under honorable conditions” are substituted for the word “honorably”.

AMENDMENTS

2021—Pub. L. 116–283 substituted “Marine Corps, or Space Force” for “or Marine Corps”.

PERSONNEL FREEZE FOR SERVICE REVIEW AGENCIES

Pub. L. 105–261, div. A, title V, § 541, Oct. 17, 1998, 112 Stat. 2019, provided that, during fiscal years 1999, 2000, and 2001, the Secretary of a military department could not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until: (1) the Secretary had submitted to Congress a report that described the reduction to be made and the rationale for that reduction, and specified the number of such personnel that would be assigned to duty with that agency after the reduction; and (2) a period of 90 days had elapsed after the date on which such report had been submitted.

§ 1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary’s department when the Secretary considers it necessary to correct an error or remove

an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3)(A) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(B) If a board makes a preliminary determination that a claim under this section lacks sufficient information or documents to support the claim, the board shall notify the claimant, in writing, indicating the specific information or documents necessary to make the claim complete and reviewable by the board.

(C) If a claimant is unable to provide military personnel or medical records applicable to a claim under this section, the board shall make reasonable efforts to obtain the records. A claimant shall provide the board with documentary evidence of the efforts of the claimant to obtain such records. The board shall inform the claimant of the results of the board's efforts, and shall provide the claimant copies of any records so obtained upon request of the claimant.

(D) Any request for reconsideration of a determination of a board under this section, no matter when filed, shall be reconsidered by a board under this section if supported by materials not previously presented to or considered by the board in making such determination.

(4)(A) Subject to subparagraph (B), a correction under this section is final and conclusive on all officers of the United States except when procured by fraud.

(B) If a board established under this section does not grant a request for an upgrade to the characterization of a discharge or dismissal, that declination may be considered under section 1553a of this title.

(5) Each final decision of a board under this subsection shall be made available to the public in electronic form on a centralized Internet website. In any decision so made available to the public there shall be redacted all personally identifiable information.

(b) No correction may be made under subsection (a)(1) unless the claimant (or the claimant's heir or legal representative) or the Secretary concerned files a request for the correction within three years after discovering the error or injustice. The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed

forces who were similarly harmed by the same error or injustice. A board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c)(1) The Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, or on account of his or another's service as a civilian employee.

(2) If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(A) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(B) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(C) as otherwise prescribed by the law applicable to that kind of payment.

(3) A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(4) If the correction of military records under this section involves setting aside a conviction by court-martial, the payment of a claim under this subsection in connection with the correction of the records shall include interest at a rate to be determined by the Secretary concerned, unless the Secretary determines that the payment of interest is inappropriate under the circumstances. If the payment of the claim is to include interest, the interest shall be calculated on an annual basis, and compounded, using the amount of the lost pay, allowances, compensation, emoluments, or other pecuniary benefits involved, and the amount of any fine or forfeiture paid, beginning from the date of the conviction through the date on which the payment is made.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or

(2) action on the sentence of a court-martial for purposes of clemency.

(g)(1) Any medical advisory opinion issued to a board established under subsection (a)(1) with respect to a member or former member of the armed forces who was diagnosed while serving in the armed forces as experiencing a mental health disorder shall include the opinion of a clinical psychologist or psychiatrist if the request for correction of records concerned relates to a mental health disorder.

(2) If a board established under subsection (a)(1) is reviewing a claim described in subsection (h), the board shall seek advice and counsel in the review from a psychiatrist, psychologist, or social worker with training on mental health issues associated with post-traumatic stress disorder or traumatic brain injury or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(3) If a board established under subsection (a)(1) is reviewing a claim in which sexual trauma, intimate partner violence, or spousal abuse is claimed, the board shall seek advice and counsel in the review from an expert in trauma specific to sexual assault, intimate partner violence, or spousal abuse, as applicable.

(h)(1) This subsection applies to a former member of the armed forces whose claim under this section for review of a discharge or dismissal is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale, or as justification for priority consideration, and whose post-traumatic stress disorder or traumatic brain injury is related to combat or military sexual trauma, as determined by the Secretary concerned.

(2) In the case of a claimant described in paragraph (1), a board established under subsection (a)(1) shall—

(A) review medical evidence of the Secretary of Veterans Affairs or a civilian health care provider that is presented by the claimant; and

(B) review the claim with liberal consideration to the claimant that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the claimant's discharge or dismissal.

(i) Each board established under this section shall make available to the public each calendar quarter, on an Internet website of the military department concerned or the Department of

Homeland Security, as applicable, that is available to the public the following:

(1) The number of claims considered by such board during the calendar quarter preceding the calendar quarter in which such information is made available, including cases in which a mental health condition of the former member, including post-traumatic stress disorder or traumatic brain injury, is alleged to have contributed, whether in whole or part, to the original characterization of the discharge or release of the former member.

(2) The number of claims submitted during the calendar quarter preceding the calendar quarter in which such information is made available that relate to service by a former member during a war or contingency operation, catalogued by each war or contingency operation.

(3) The number of military records corrected pursuant to the consideration described in paragraph (1) to upgrade the characterization of discharge or release of former members.

(4) The number and disposition of claims decided during the calendar quarter preceding the calendar quarter in which such information is made available in which sexual assault is alleged to have contributed, whether in whole or in part, to the original characterization of the discharge or release of the former member.

(j) In this section, the term “military record” means a document or other record that pertains to (1) an individual member or former member of the armed forces, or (2) at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 747, 855, 857, 871, and 947 of this title).

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 86-533, §1(4), June 29, 1960, 74 Stat. 246; Pub. L. 96-513, title V, §511(60), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 98-209, §11(a), Dec. 6, 1983, 97 Stat. 1407; Pub. L. 100-456, div. A, title XII, §1233(a), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101-189, div. A, title V, §514, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1441, 1603; Pub. L. 102-484, div. A, title X, §1052(19), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 105-261, div. A, title V, §545(a), (b), Oct. 17, 1998, 112 Stat. 2022; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110-417, [div. A], title V, §592(a), (b), Oct. 14, 2008, 122 Stat. 4474, 4475; Pub. L. 113-291, div. A, title V, §521(a), Dec. 19, 2014, 128 Stat. 3360; Pub. L. 114-92, div. A, title V, §521, Nov. 25, 2015, 129 Stat. 811; Pub. L. 114-328, div. A, title V, §§533(a), 534(a), (b), Dec. 23, 2016, 130 Stat. 2121, 2122; Pub. L. 115-91, div. A, title V, §§520(a), 521(a), (c)(1), title X, §1081(a)(27), Dec. 12, 2017, 131 Stat. 1379, 1380, 1595; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-92, div. A, title V, §§521(a), 523(b)(2)(A), Dec. 20, 2019, 133 Stat. 1353, 1354; Pub. L. 116-283, div. A, title IX, §924(b)(2)(A)(vi), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1552(a)	5:191a(a) (less 2d and last provisos). 5:275(a) (less 2d and last provisos).	Aug. 2, 1946, ch. 753, §207; restated Oct. 25, 1951, ch. 588, 65 Stat. 655.
1552(b)	5:191a(a) (2d and last provisos). 5:275(a) (2d and last provisos).	
1552(c)	5:191a(b), (c). 5:275(b), (c).	
1552(d)	5:191a(d). 5:275(d).	
1552(e)	5:191a(f). 5:275(f).	
1552(f)	5:191a(e). 5:275(e).	

In subsection (a), the words “and approved by the Secretary of Defense” are substituted for 5:191a(a) (1st proviso). The words “when he considers it” are substituted for the words “where in their judgment such action is”, in 5:191a and 275. The words “officers or employees” and “means of”, in 5:191a and 275, are omitted as surplusage. The word “naval”, in 5:191a and 275, is omitted as covered by the word “military”.

In subsection (b), the words “before October 26, 1961” are substituted for the words “or within ten years after the date of enactment of this section”, in 5:191a and 275. The last sentence of the revised subsection is substituted for 5:191a(a) (last proviso) and 275(a) (last proviso).

In subsection (c), the words “if, as a result of correcting a record under this section * * * the amount is found to be due the claimant on account of his or another’s service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be” are substituted for the words “which are found to be due on account of military or naval service as a result of the action * * * hereafter taken pursuant to subsection (a) of this section”, in 5:191a and 275. The words “heretofore taken pursuant to this section”, in 5:191a and 275, are omitted as executed. The words “of any persons, their heirs at law or legal representative as hereinafter provided”, “(including retired or retirement pay)”, “as the case may be”, “duly appointed”, “otherwise due hereunder”, “decendent’s”, “precedence or succession”, and “of precedence”, in 5:191a and 275, are omitted as surplusage. The last sentence is substituted for 5:191a(c) and 275(c).

In subsection (d), the word “but” is substituted for the words “That, continuing payments are authorized to be made to such personnel”, in 5:191a and 275. The words “if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate” are substituted for the words “without the necessity for reenlistment, appointment, or reappointment to the grade, rank, or office to which such pay (including retired or retirement pay), allowances, compensation, emoluments, and other monetary benefits are attached”, in 5:191a and 275. The words “or one year following the date of enactment of this section”, in 5:191a and 275, are omitted as executed. The words “for payment of such sums as may be due for”, in 5:191a and 275, are omitted as surplusage. The words “(including retired or retirement pay)”, in 5:191a and 275, are omitted as covered by the definition of “pay” in section 101(27) of this title.

In subsection (e), the words “No payment may be made under this section” are substituted for the words “Nothing in this section shall be construed to authorize the payment of any amount as compensation”, in 5:191a and 275.

REFERENCES IN TEXT

The Uniform Code of Military Justice (Public Law 506 of the 81st Congress), referred to in subsec. (f), is act May 5, 1950, ch. 169, §1, 64 Stat. 107, which was classified to chapter 22 (§551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47

(§801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, the first section of which enacted this title.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 116-283 substituted “Marine Corps, Space Force,” for “Marine Corps,”.

2019—Subsec. (a)(4). Pub. L. 116-92, §523(b)(2)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.”

Subsec. (g). Pub. L. 116-92, §521(a), designated existing provisions as par. (1) and added pars. (2) and (3).

2018—Subsec. (j). Pub. L. 115-232 substituted “chapters 81, 83, 87, 108, 747, 855, 857, 871, and 947” for “chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873”.

2017—Subsec. (h). Pub. L. 115-91, §520(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 115-91, §1081(a)(27), substituted “calendar” for “calender” wherever appearing.

Pub. L. 115-91, §520(a)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 115-91, §521(c)(1)(A), substituted “former member” for “claimant” in two places.

Subsec. (i)(2). Pub. L. 115-91, §521(c)(1)(B), substituted “former member” for “claimant”.

Subsec. (i)(3). Pub. L. 115-91, §521(c)(1)(C), substituted “former members” for “claimants”.

Subsec. (i)(4). Pub. L. 115-91, §521(a), added par. (4).

Subsec. (j). Pub. L. 115-91, §520(a)(1), redesignated subsec. (i) as (j).

2016—Subsec. (a)(3). Pub. L. 114-328, §534(a), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (a)(5). Pub. L. 114-328, §534(b), added par. (5).

Subsecs. (h), (i). Pub. L. 114-328, §533(a), added subsec. (h) and redesignated former subsec. (h) as (i).

2015—Subsec. (b). Pub. L. 114-92 substituted “(or the claimant’s heir or legal representative) or the Secretary concerned” for “or his heir or legal representative”, “discovering” for “he discovers”, and “The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed forces who were similarly harmed by the same error or injustice. A board” for “However, a board”.

2014—Subsecs. (g), (h). Pub. L. 113-291 added subsec. (g) and redesignated former subsec. (g) as (h).

2008—Subsec. (c). Pub. L. 110-417 designated existing provisions as pars. (1) to (3), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (2), and added par. (4).

2002—Subsec. (a)(1). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1998—Subsec. (c). Pub. L. 105-261, §545(a), inserted “, or on account of his or another’s service as a civilian employee” before period at end of first sentence.

Subsec. (g). Pub. L. 105-261, §545(b), added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102-484 substituted “announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade” for “announcing a decision not to promote an enlisted member to a higher grade”.

1989—Subsec. (a). Pub. L. 101-189, §514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of Transportation may in the same manner correct any military record of the Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.”

Subsec. (b). Pub. L. 101-189, § 514(b), substituted “subsection (a)(1)” for “subsection (a)” in two places.

Subsec. (e). Pub. L. 101-189, § 1621(a)(2), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1988—Subsec. (b). Pub. L. 100-456, § 1233(a)(1), substituted “for the correction within three years after he discovers the error or injustice” for “therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later”.

Subsec. (c). Pub. L. 100-456, § 1233(a)(2), substituted “The Secretary concerned” for “The department concerned”.

1983—Subsec. (f). Pub. L. 98-209 added subsec. (f).

1980—Subsec. (a). Pub. L. 96-513 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1960—Subsec. (f). Pub. L. 86-533 repealed subsec. (f) which required reports to the Congress every six months with respect to claims paid under this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title V, § 592(c), Oct. 14, 2008, 122 Stat. 4475, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any sentence of a court-martial set aside by a Corrections Board on or after October 1, 2007, when the Corrections Board includes an order or recommendation for the payment of a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, that arose as a result of the conviction. In this subsection, the term ‘Corrections Board’ has the meaning given that term in section 1557 of title 10, United States Code.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

REMOVAL OF PERSONALLY IDENTIFYING AND OTHER INFORMATION OF CERTAIN PERSONS FROM INVESTIGATIVE REPORTS, THE DEPARTMENT OF DEFENSE CENTRAL INDEX OF INVESTIGATIONS, AND OTHER RECORDS AND DATABASES

Pub. L. 116-283, div. A, title V, § 545, Jan. 1, 2021, 134 Stat. 3613, provided that:

“(a) **POLICY AND PROCESS REQUIRED.**—Not later than October 1, 2021, the Secretary of Defense shall establish and maintain a policy and process through which any covered person may request that the person’s name, personally identifying information, and other information pertaining to the person shall, in accordance with subsection (c), be corrected in, or expunged or otherwise removed from, the following:

“(1) A law enforcement or criminal investigative report of the Department of Defense or any component of the Department.

“(2) An index item or entry in the Department of Defense Central Index of Investigations (DCII).

“(3) Any other record maintained in connection with a report described in paragraph (1), or an index item or entry described in paragraph (2), in any system of records, records database, records center, or repository maintained by or on behalf of the Department.

“(b) **COVERED PERSONS.**—For purposes of this section, a covered person is any person whose name was placed or reported, or is maintained—

“(1) in the subject or title block of a law enforcement or criminal investigative report of the Department of Defense (or any component of the Department);

“(2) as an item or entry in the Department of Defense Central Index of Investigations; or

“(3) in any other record maintained in connection with a report described in paragraph (1), or an index item or entry described in paragraph (2), in any system of records, records database, records center, or repository maintained by or on behalf of the Department.

“(c) **ELEMENTS.**—The policy and process required by subsection (a) shall include the following elements:

“(1) **BASIS FOR CORRECTION OR EXPUNGEMENT.**—That the name, personally identifying information, and other information of a covered person shall be corrected in, or expunged or otherwise removed from, a report, item or entry, or record described in paragraphs (1) through (3) of subsection (a) in the following circumstances:

“(A) Probable cause did not or does not exist to believe that the offense for which the person’s name was placed or reported, or is maintained, in such report, item or entry, or record occurred, or insufficient evidence existed or exists to determine whether or not such offense occurred.

“(B) Probable cause did not or does not exist to believe that the person actually committed the offense for which the person’s name was so placed or reported, or is so maintained, or insufficient evidence existed or exists to determine whether or not the person actually committed such offense.

“(C) Such other circumstances, or on such other bases, as the Secretary may specify in establishing the policy and process, which circumstances and bases may not be inconsistent with the circumstances and bases provided by subparagraphs (A) and (B).

“(2) **CONSIDERATIONS.**—While not dispositive as to the existence of a circumstance or basis set forth in paragraph (1), the following shall be considered in the determination whether such circumstance or basis applies to a covered person for purposes of this section:

“(A) The extent or lack of corroborating evidence against the covered person concerned with respect to the offense at issue.

“(B) Whether adverse administrative, disciplinary, judicial, or other such action was initiated against the covered person for the offense at issue.

“(C) The type, nature, and outcome of any action described in subparagraph (B) against the covered person.

“(3) **PROCEDURES.**—The policy and process required by subsection (a) shall include procedures as follows:

“(A) Procedures under which a covered person may appeal a determination of the applicable component of the Department of Defense denying, whether in whole or in part, a request for purposes of subsection (a).

“(B) Procedures under which the applicable component of the Department will correct, expunge or remove, take other appropriate action on, or assist a covered person in so doing, any record maintained by a person, organization, or entity outside of the Department to which such component provided, submitted, or transmitted information about the covered person, which information has or will be corrected in, or expunged or removed from, Department records pursuant to this section.

“(C) The timeline pursuant to which the Department, or a component of the Department, as applicable, will respond to each of the following:

“(i) A request pursuant to subsection (a).

“(ii) An appeal under the procedures required by subparagraph (A).

“(iii) A request for assistance under the procedures required by subparagraph (B).

“(D) Mechanisms through which the Department will keep a covered person apprised of the progress of the Department on a covered person’s request or appeal as described in subparagraph (C).

“(d) APPLICABILITY.—The policy and process required to be developed by the Secretary under subsection (a) shall not be subject to the notice and comment rule-making requirements under section 553 of title 5, United States Code.

“(e) REPORT.—Not later than October 1, 2021, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken to carry out this section, including a comprehensive description of the policy and process developed and implemented by the Secretary under subsection (a).”

CORRECTION OF CERTAIN DISCHARGE CHARACTERIZATIONS

Pub. L. 116–92, div. A, title V, § 527, Dec. 20, 2019, 133 Stat. 1356, provided that:

“(a) IN GENERAL.—In accordance with this section, and in a manner that is consistent across the military departments to the greatest extent practicable, the appropriate board shall, at the request of a covered member or the authorized representative of a covered member—

“(1) review the discharge characterization of that covered member; and

“(2) change the discharge characterization of that covered member to honorable if the appropriate board determines such change to be appropriate after review under paragraph (1).

“(b) APPEAL.—A covered member or the authorized representative of that covered member may seek review of a decision by the appropriate board not to change the discharge characterization of that covered member. Such review may be made pursuant to section 1552 of title 10, United States Code, section 1553 of such title, or any other process established by the Secretary of Defense for such purpose.

“(c) CHANGE OF RECORDS.—For each covered member whose discharge characterization is changed under subsection (a) or (b), the Secretary of the military department concerned shall issue to the covered member or the authorized representative of the covered member a corrected Certificate of Release or Discharge from Active Duty (DD Form 214), or other like form regularly used by an Armed Force that—

“(1) reflects the upgraded discharge characterization of the covered member; and

“(2) does not reflect the sexual orientation of the covered member or the original stated reason for the discharge or dismissal of that covered member.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘appropriate board’ means a board for the correction of military or naval records under section 1552 of title 10, United States Code, or a discharge review board under section 1553 of such title, as the case may be.

“(2) The term ‘authorized representative’ means an heir or legal representative of a covered member.

“(3) The term ‘covered member’ means any former member of the Armed Forces who was discharged from the Armed Forces because of the sexual orientation of that member.

“(4) The term ‘discharge characterization’ means the characterization assigned to the service of a covered member on the discharge or dismissal of that covered member from service in the Armed Forces.”

PILOT PROGRAM ON USE OF VIDEO TELECONFERENCING TECHNOLOGY BY BOARDS FOR THE CORRECTION OF MILITARY RECORDS AND DISCHARGE REVIEW BOARDS

Pub. L. 115–91, div. A, title V, § 524, Dec. 12, 2017, 131 Stat. 1381, provided that Secretary of Defense may carry out pilot program on use of video teleconfer-

encing technology by certain boards for correction of military records and certain discharge review boards and terminated authority for carrying out program on Dec. 31, 2020.

TRAINING OF MEMBERS OF BOARDS

Pub. L. 116–92, div. A, title V, § 525(a), Dec. 20, 2019, 133 Stat. 1356, provided that: “The curriculum of training for members of boards for the correction of military records under section 534(c) of the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114–328] (10 U.S.C. 1552 note) shall include training on each of the following:

“(1) Sexual trauma.

“(2) Intimate partner violence.

“(3) Spousal abuse.

“(4) The various responses of individuals to trauma.”

Pub. L. 114–328, div. A, title V, § 534(c), Dec. 23, 2016, 130 Stat. 2122, as amended by Pub. L. 115–91, div. A, title V, § 523(a), Dec. 12, 2017, 131 Stat. 1381, provided that:

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], each Secretary concerned shall develop and implement a comprehensive training curriculum for members of boards for the correction of military records under the jurisdiction of such Secretary in the duties of such boards under section 1552 of title 10, United States Code. The curriculum shall address all areas of administrative law applicable to the duties of such boards. This curriculum shall also address the proper handling of claims in which a sex-related offense is alleged to have contributed to the original characterization of the discharge or release of the claimant, including guidelines for the consideration of evidence substantiating such allegations in accordance with the requirements of section 1554b(b) of title 10, United States Code, as added by section 522 of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115–91].

“(2) UNIFORM CURRICULA.—The Secretary of Defense and the Secretary of Homeland Security shall jointly ensure that the curricula developed and implemented pursuant to this subsection are, to the extent practicable, uniform.

“(3) TRAINING.—

“(A) IN GENERAL.—Each member of a board for the correction of military records shall undergo retraining (consistent with the curriculum developed and implemented pursuant to this subsection) regarding the duties of boards for the correction of military records under section 1552 of title 10, United States Code, at least once every five years during the member’s tenure on the board.

“(B) CURRENT MEMBERS.—Each member of a board for the correction of military records as of the date of the implementation of the curriculum required by paragraph (1) (in this paragraph referred to as the ‘curriculum implementation date’) shall undergo training described in subparagraph (A) not later than 90 days after the curriculum implementation date.

“(C) NEW MEMBERS.—Each individual who becomes a member of a board for the correction of military records after the curriculum implementation date shall undergo training described in subparagraph (A) by not later than 90 days after the date on which such individual becomes a member of the board.

“(4) REPORTS.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], each Secretary concerned shall submit to Congress a report setting forth the following:

“(A) A description and assessment of the progress made by such Secretary in implementing training requirements for members of boards for the correction of military records under the jurisdiction of such Secretary.

“(B) A detailed description of the training curriculum required of such Secretary by paragraph (1).

“(C) A description and assessment of any impediments to the implementation of training requirements for members of boards for the correction of

military records under the jurisdiction of such Secretary.

“(5) SECRETARY CONCERNED DEFINED.—In this subsection, the term ‘Secretary concerned’ means a ‘Secretary concerned’ as that term is used in section 1552 of title 10, United States Code.”

BOARD FOR CORRECTION OF MILITARY RECORDS

Pub. L. 101-225, title II, §212, Dec. 12, 1989, 103 Stat. 1914, provided that: “Not later than 6 months after the date of the enactment of this Act [Dec. 12, 1989], the Secretary of Transportation shall—

“(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that a complete application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

“(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.”

§ 1553. Review of discharge or dismissal

(a) The Secretary concerned shall, after consulting the Secretary of Veterans Affairs, establish a board of review, consisting of not fewer than three members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal. With respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

(b)(1) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(2) If a board established under this section does not grant a request for an upgrade to the characterization of a discharge or dismissal, that declination may be considered under section 1552 or section 1553a of this title, as applicable.

(c) A review by a board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Secretary of Veterans Affairs under chapter 59 of title 38.

(d)(1)(A) In the case of a former member of the armed forces who, while serving on active duty as a member of the armed forces, was deployed in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist, or

psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury as a consequence of that deployment, a board established under this section to review the former member's discharge or dismissal shall include a member who is a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post traumatic stress disorder or traumatic brain injury (as applicable).

(B) In the case of a former member described in paragraph (3)(B) who claims that the former member's post-traumatic stress disorder or traumatic brain injury as described in that paragraph is based in whole or in part on sexual trauma, intimate partner violence, or spousal abuse, a board established under this section to review the former member's discharge or dismissal shall seek advice and counsel in the review from a psychiatrist, psychologist, or social worker with training on mental health issues associated with post-traumatic stress disorder or traumatic brain injury or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(2) In the case of a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale or as justification for priority consideration, the Secretary concerned shall expedite a final decision and shall accord such cases sufficient priority to achieve an expedited resolution. In determining the priority of cases, the Secretary concerned shall weigh the medical and humanitarian circumstances of all cases and accord higher priority to cases not involving post-traumatic stress disorder or traumatic brain injury only when the individual cases are considered more compelling.

(3)(A) In addition to the requirements of paragraphs (1) and (2), in the case of a former member described in subparagraph (B), the Board shall—

(i) review medical evidence of the Secretary of Veterans Affairs or a civilian health care provider that is presented by the former member; and

(ii) review the case with liberal consideration to the former member that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the member's discharge or dismissal.

(B) A former member described in this subparagraph is a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale, or as justification for priority consideration, whose post-traumatic stress disorder or traumatic brain injury is related to combat or military sexual trauma, as determined by the Secretary concerned.

(e) In the case of a former member of the armed forces (other than a former member covered by subsection (d)) who was diagnosed while